

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting Investigation on the Commission's own Motion into the Operations and Practices of Premier Van Lines, Inc. (T-178, 958), formerly known as Mon Van Moving Services, Inc., and its President and Sole Shareholder Gary R. Grubb, Re Violating Terms and Conditions of Settlement Adopted by the Commission in Decision No. 00-06-013.

FILED
PUBLIC UTILITIES COMMISSION
SEPTEMBER 5, 2002
SAN FRANCISCO OFFICE
I.02-09-002

ORDER INSTITUTING INVESTIGATION

I. INTRODUCTION

With this Order, we institute an investigation into the operations and practices of Premier Van Lines, Inc. (Premier), a Household Goods Carrier (carrier) operating pursuant to Permit T-178, 958 (Permit), and its President and sole shareholder, Gary R. Grubb (Grubb). We are taking this action because of reports by the Consumer Protection and Safety Division (CPSD) that Premier has failed to fulfill the terms and conditions of a stipulated settlement (Settlement) adopted by the Commission.

In I.99-06-039, we ordered an investigation of Grubb and his former carrier business, Mon Van Moving Services, Inc. (Mon Van).¹ That docket was closed after the Commission in Decision No. (D.) 00-06-013 adopted the Settlement agreed to by the CPSD, Mon Van, Premier, and Mr. Grubb.²

¹ Mon Van was operating under Permit T-167, 489.

² Mon Van, Premier, and Gary R. Grubb are hereinafter collectively referred to as "the Respondents."
(Footnote continued on the next page)

According to CPSD, the Respondents have breached the Settlement adopted in D. 00-06-013. For example, they have paid little, if any, of the total \$15,799 ordered restitution; have not pursued informal dispute resolution of specified customer claims; have defaulted on installment payments of the \$10,000 fine; and have not filed semi-annual reports of customer claims. In addition, the CPSD Consumer Intake Unit has received six consumer complaints against the Respondents since D.00-06-013 was issued in June 2000.

Pursuant to Section 5285(b),³ this Order suspends the Respondents' Permit effective 15 days after the date of service of this Order on the Respondents. The suspension will continue until the Respondents comply with all of the express provisions of D.00-06-013. The Respondents must demonstrate to CPSD such compliance with pertinent records or documents. If within 30 days after receiving this Order the Respondents fail to request an evidentiary hearing, the Respondents' Permit will be revoked with prejudice.⁴

If the Respondents request a hearing, the Commission will convene a Prehearing Conference to schedule a hearing pursuant to Rule 49 of the Commission Rules of Practice and Procedure (Rule). However, the suspension of Permit T-178-958 will remain in place pending the Respondents' compliance. The hearing will afford the

CPSD was formerly known as the Consumer Services Division until June 2002.

³ "Section" means provisions of the California Public Utilities Code, unless otherwise indicated. Section 5285 provides that after notice and an opportunity to be heard the Commission on its own initiative may suspend or revoke the Respondents' Permit for failure to comply with any order, rule, or regulation. Further, the Commission may suspend without having a hearing or other proceedings, the Respondents' right to operate under their Permit by giving reasonable notice of not less than 15 days. The suspension may continue until compliance is achieved. Within 30 days after receiving the notice, the Respondents may request a hearing, which must be granted.

⁴ Section 5286 authorizes the Commission to grant or deny an application for a new permit whenever it appears that a prior permit of the applicant has been canceled or revoked pursuant to Section 5285.

Respondents an opportunity to show why their Permit should not be revoked for violating the provisions of D. 00-06-013.

II. BACKGROUND

Mr. Grubb formerly owned and operated Mon Van as its President and sole shareholder under Permit T-167, 489. In April 1999, Mon Van was dissolved. Subsequently Mr. Grubb continued in the carrier business as the President and the sole shareholder of Premier under Permit T- 178,958.

After the Commission issued I. 99-06-039 against Mon Van and Mr. Grubb, the parties agreed to the Settlement that the Commission adopted on June 8, 2000, in D. 00-06-013. Among the terms and conditions of the Settlement are the following:

- Premier and Mr. Grubb would assume joint and several responsibility for Mon Van's payment of the fines and restitutions.
- Respondents would pay a fine of \$10,000 in 20 consecutive monthly installment payments of \$500 each, and the total of any remaining payments would become due and payable if the Respondents fail to comply with the Settlement.
- Within 180 days after adoption of the Settlement, the Respondents would pay restitution to customers as specified in Attachment A of the Settlement.
- Within 720 days after Commission approval of the Settlement, the Respondents would mediate or arbitrate the customer claims listed in Attachment B of the Settlement.
- The Respondents would file semi-annual reports of customer claims for two years after Commission adoption of the Settlement.

III. CPSD FINDINGS AND ALLEGATIONS

A. CPSD's Warnings

From February 25, 2000 to March 16, 2001, CPSD wrote eight letters to the Respondents asking for the status of their restitution to customers, informal dispute resolutions, and customer claims.⁵ . The Respondents made no response to any of these letters.

B. The \$10,000 Fine

From June 8, 2001, to the present, the Respondents have made only 11 installment payments totaling \$5,500. No installment payments have been made since September 26, 2001. Many of the payments were made months after their due date. The Respondents still owe the Commission fines totaling \$4,500.

C. Failure to Pay Restitution and/or Resolve Certain Customer Loss or Damage Claims

According to D.00-06-013, the Respondents were ordered to pay restitution to customers amounting in total to \$15,799. They also had to informally resolve nine customer loss or damage claims during a two-year probation period beginning June 8, 2000. According to CPSD, the Respondents have to date made no customer restitutions. None of the nine customer claims have been mediated, arbitrated, or otherwise informally resolved.⁶

D. No Semi-Annual Reports

According to the Settlement, the Respondents are required to semi-annually report the number, identity, and disposition of customer loss or damage claims filed with

⁵ The dates of these letters are as follows: February 25, 2000, March 23, 2000, June 21, July 20, September 25, 2000, November 8, 2000, February 1, 2001, and March 16, 2001.

⁶ The nine customer claims are listed in Attachment B of the Settlement.

them during the two-year probation period beginning June 8, 2000. No such reports have been filed.

Since from June 8, 2000, the CPSD Consumer Intake Unit has received six customer complaints against the Respondent. The Respondents have failed to process and resolve these complaints, thereby compounding their existing violations.

IT IS ORDERED that:

1. An investigation on the Commission's own motion is instituted into the operations and practices of the following Respondents:

- Premier Van Lines, Inc. (T-178, 958), formerly Mon Van Moving Services, Inc. (T-167, 489); and
- Gary R. Grubb, the President and sole shareholder of both Mon Van and Premier.

2. The Respondents' Permit T-178, 958 is suspended effective 15 days after the date of service of this Order on the Respondents. This suspension will continue until the Respondents have fully complied with all the express provisions of D.00-06-013.

3. If the Respondents request a hearing, an assigned Administrative Law Judge (ALJ) will convene a Prehearing Conference and schedule a date, time, and place for a public evidentiary hearing on this matter. At the evidentiary hearing, the Respondents will have the opportunity to show why their Permit T-178, 958 should not be revoked with prejudice because of the following allegations:

- The Respondents have failed to completely pay the fine of \$10,000 in 20 consecutive monthly payments of \$500 each and currently owe a total of \$4,500.⁷

⁷ See D.00-06-013, Ordering Para. 2, and the Settlement at p. 3, para. 2.

- The Respondents have failed to pay the customer restitutions as specified in Attachment A of the Settlement (totaling \$15,799) within the 180 days following the issuance date of D.00-06-013.⁸
- The Respondents have failed to resolve informally any of the customer claims listed in Attachment B of the Settlement as ordered.²
- The Respondents have failed to process and report to the Commission customer complaints or loss and damage claims filed with them as required by D. 00-06-013.¹⁰

4. The Respondents are placed on notice of the following:

- They may be fined to the extent provided in Sections 5313, 5315, and 5316, for each and every violation and for each day's continuance of the violation.
- The Respondents may be ordered to immediately pay to the Commission the fine of \$4,500 that remains outstanding, as well as the \$15,799 in customer restitutions that have not been distributed to customers in accord with D.00-06-013.
- Permit T-178, 958 may be suspended, canceled, or revoked pursuant to Section 5285 subdivision (b).¹¹
- If during the pendency of this matter the Respondents apply for another Household Goods Carrier permit, that application will be consolidated with this matter. Any application made after this

⁸ See *id.* and the Settlement at p. 4, para. 3.

² D.00-06-013, *id.* and the Settlement, at p. 4, paragraph 4.

¹⁰ See D.00-06-013, *id.* and the Settlement at pp. 5-6, paragraph 12.

matter is closed, may be denied based on the outcome of this proceeding and pursuant to Section 5286.

5. During the pendency of this investigation, the Respondents are ordered to cease and desist from violating any provision of the Household Goods Carriers Act¹² or any Commission orders, rules, and regulations.

6. The CPSD may present additional evidence pertaining to the Respondents' operations and practices, whether by testimony or documentation, that may extend beyond the scope of the evidence presented in the CPSD Declaration accompanying the service of this Order on the Respondents. That Declaration and its attachments constitute the Staff's prepared direct testimony. The additional evidence may show whether any or all of the Respondents continue to engage in improper conduct after the issuance of this Order. Such evidence would bear upon the appropriate type and level of sanctions or fines to impose. At a Prehearing Conference or as otherwise directed by the assigned ALJ, the Respondents will advise CPSD how many, if any, of CPSD's customer witnesses whom they wish to cross-examine at the evidentiary hearing.

7. Scoping Information: This paragraph suffices for the "preliminary scoping memo" required by Rule 6(c). This enforcement proceeding is adjudicatory. A hearing may be held if requested by the Respondents. If the parties settle, ¹³the Commission may hold a hearing to determine whether such a settlement is in the public interest or to answer the assigned ALJ or Commissioner's questions regarding the terms and conditions of the proposed settlement.

8. If a hearing is necessary, the assigned Administrative Law Judge will convene a Prehearing Conference within 40 or fewer days after the Respondents have

¹¹ See the Settlement at p. 5, paragraph 11.

¹² See California Public Utilities Code, division 2, chapter 7, section 5101 et seq.

¹³ Pursuant to the Commission Rules of Practice and Procedure, Article 13.5, Rule 51 et seq.

delivered their request for a hearing in writing to the Acting Chief ALJ and to the Director of the CPSD at 505 Van Ness Avenue, San Francisco, California 94102. A hearing will be held as soon as practicable thereafter. Objections to the Order may be filed but must be confined to jurisdictional issues that would nullify any eventual Commission decision on the merits of the issues regarding violations of Public Utilities Code statutes or Commission rules and regulations.

9. The Executive Director shall cause a copy of this Order and the supporting CPSD Declaration to be personally served upon the Respondents in the following names and at the following addresses:

- Gary R. Grubb, President, Premier Van Lines, Inc., 1705 South Mountain Avenue, Monrovia CA 91016; and
- Premier Van Lines, Inc., 1705 South Mountain Ave, Monrovia, CA 91016.

A courtesy copy of this Order and the CPSD Declaration will also be mailed via first class mail, postage prepaid, to the Respondents at the above stated addresses.

This Order is effective today.

Dated September 5, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners

Commissioner Henry M. Duque, being necessarily absent, did not participate.